

REMARKS**Summary of the Office Action**

Claims 12, 13, 15, 16, 18, 19, 21, 22, 28-26, 28 and 29 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,340,820 to Youden et al. Claims 14, 17, 20, 24, 27, 30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,340,820 to Youden et al. Applicants note that claims 23 and 25 are not clearly indicated as being rejected. However, Applicants presume that the “28-26” in the 35 U.S.C. § 102(e) rejection of the Office Action is a typo and should have been 23-26 in light of the fact that page one of the Office Action indicates that claims 12-30 are rejected. In the event that the Applicants’ understanding is incorrect, Applicants’ respectfully request clarification in the next communication.

Summary of the Response to the Office Action

Claims 12-14, 18, 21-23, 25 and 28 have been amended to further define the present invention. Claims 1-11 and 31-35 are withdrawn from further consideration in accordance with an election of claims 12-30 made earlier in response to a Restriction Requirement. Accordingly, claims 12-30 are presently under consideration on the merits, while claims 1-35 remain pending.

All Claims Comply with 35 U.S.C. § 102(e)

Claims 12, 13, 15, 16, 18, 19, 21, 22, 28-26, 28 and 29 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,340,820 to Youden et al. Although claims 23

and 25 are not clearly indicated as being rejected, Applicants presume that the “28-26” in the 35 U.S.C. § 102(e) rejection of the Office Action is a typo and should have been 23-26, as discussed above. To the extent that the Examiner may consider this rejection to apply to independent claims 12, 15, 18, 21, 22, 25 and 28, as amended, the rejection is respectfully traversed as being based upon a reference that neither teaches nor suggests the novel combination of features now recited in independent claims 12, 15, 18, 21, 22, 25 and 28.

Each of independent claims 12, 15, 18, 21, 22, 25 and 28, as amended, now recite the feature of a chromophore dye, amongst other features. Support for the feature of chromophore dye can be found in Applicants’ specification on pages 6-15, for example, and variations thereof are shown in FIGs. 1-4. As discussed on page 6 of the Applicants’ specification, a chromophore compound absorbs two or three photons of infrared light and fluoresce light in the visible spectrum.

In contrast to Applicants’ presently claimed invention, Youden et al. discloses a phosphor material rather than a chromophore dye. Applicants submit that the absorption takes place in two separate steps, with a time interval between the two being as long as several minutes or more in the phosphor material of Youden et al. Further, the phosphorescence in Youden et al. is an emission of light that occurs at a later point in time, after the excitation light has terminated.

Unlike in a phosphor material, the processes of absorption and emission occur essentially simultaneously, or on a very short time scale (picoseconds or less) in a medium including a chromophore dye. Moreover, because the responsiveness is substantially instantaneous, a medium including a chromophore dye can be used to distinguish in which regime a near-visible

or IR laser is working in, such as a mode-locked regime or a not-mode-locked regime. Because the phosphor material, as described by Youden et al., has a slow response and emits light after exposure, Applicants assert that the device of Youden et al. can not be used to distinguish in which regime a near-visible or IR laser is working in.

Applicants respectfully submit that there is no teaching or suggestion in Youden et al. of a medium including a chromophore dye. Further, Applicants respectfully submit that Youden et al. does not teach or suggest using a medium including a chromophore dye to distinguish in which regime a near-visible or IR laser is working in. Thus, Applicants respectfully assert that Youden et al. fails to teach or suggest every limitation recited in each of independent claims 12, 15, 18, 21, 22, 25 and 28, as amended.

For at least the above reasons, Applicants respectfully assert that the rejection under 35 U.S.C. 102(e) should be withdrawn because Youden et al. neither teaches nor suggests the novel combination of features now clearly recited in independent claims 12, 15, 18, 21, 22, 25 and 28, as amended. Moreover, dependent claims 13, 16, 19, 23, 24, 26 and 29 are allowable over Youden et al. for the same reasons as discussed above and for the additional features that they recite. Accordingly, Applicants respectfully request that the 35 U.S.C. § 102(e) rejection of claims 12, 13, 15, 16, 18, 19, 21, 22, 23-26, 28 and 29 over Youden et al. be withdrawn.

All Claims Comply with 35 U.S.C. § 103(a)

Claims 14, 17, 20, 24, 27 and 30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,340,820 to Youden et al. Claims 14, 17, 20, 24, 27 and 30

are respectively dependent upon independent claims 12, 15, 18, 22, 25 and 28. To the extent that the Examiner may consider this rejection to still apply, Applicants respectfully assert that this 35 U.S.C. § 103(a) rejection does not make up for the deficiencies of Youden et al. as discussed above with regard to amended independent claims 12, 15, 18, 21, 22, 25 and 28. For example, Youden et al. does not teach or suggest a medium including a chromophore dye. Moreover, dependent claims 14, 17, 20, 24, 27 and 30 are allowable over Youden et al. for the same reasons as discussed above and for the additional features that they recite. Accordingly, Applicants respectfully request withdrawal of the 35 U.S.C. § 103(a) rejection under 35 U.S.C. § 103(a) of claims 14, 17, 20, 24, 27 and 30.

CONCLUSION

In view of the foregoing, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims. Should the Examiner feel that there are any issues outstanding after consideration of this amendment, the Examiner is invited to contact Applicants' undersigned representative to expedite prosecution.

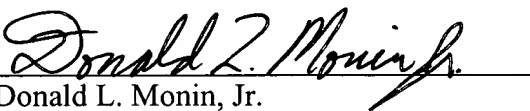
If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-0310. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted

MORGAN, LEWIS & BOCKIUS LLP

Dated: November 6, 2003

By:



Donald L. Monin, Jr.

Reg. No. 47,256

CUSTOMER NO. 009629

MORGAN, LEWIS & BOCKIUS LLP

1111 Pennsylvania Avenue, NW

Washington, DC 20004

Tel. 202.739.3000

Fax 202.739.3001